

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

	)	MDL No. 1456
IN RE: PHARMACEUTICAL INDUSTRY	)	Master File No. 1:01-CV-12257-PBS
AVERAGE WHOLESALE PRICE	)	Sub-Category Case No. 1:08-CV-11200
LITIGATION	)	
	)	
	)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO	)	
<i>United States ex rel. Linnette Sun and Greg</i>	)	
<i>Hamilton, Relators</i>	)	
v.	)	
<i>Baxter Hemoglobin Therapeutics and Baxter</i>	)	
<i>International, Inc.</i>	)	
	)	

**RELATORS' OPPOSITION TO BAXTER INTERNATIONAL INC.'S**  
**MOTION FOR LEAVE TO FILE A MEMORANDUM**  
**IN EXCESS OF PAGE LIMITATION**

Relators Linnette Sun and Greg Hamilton oppose Baxter International Inc.'s ("Baxter") motion for leave to file a memorandum in support of its Motion To Dismiss Relators' Complaint in excess of the page limitation imposed by District of Massachusetts Local Rule 7.1(b)(4) on the grounds that the motion mischaracterizes the relators' complaint, mischaracterizes the conditions that the relators' counsel requested in return for their consent, and lacks sufficient cause for the excess pages.

Counsel for Baxter International, Inc. contacted counsel for relators via email to request consent to file a memorandum in excess of the twenty page limit, as reflected in the email dated

August 12, 2009 attached hereto as Exhibit A (including proposed unopposed motion). Mark Kleiman, counsel for relator, responded via email that same day (Exhibit B) advising that relators did not object to the additional three pages but did object to the characterization of relators' pleading in the attached proposed unopposed motion to dismiss. Mr. Kleiman requested that the reference to "74 pages and 23 counts" be removed or clarified to reflect that the complaint advances only theories of liability and that 48 of the 74 pages are based on state causes of action. There was no response to this proposal by counsel for Baxter and, instead, Baxter's motion for excess pages followed.

Relators' complaint asserts three counts under the federal False Claims Act statutes. It also contains three counts for retaliation, and counts for discrimination and harassment under the California Fair Employment and Housing Act, none of which are the subject of the motion to dismiss.

The remaining fifteen counts (VII through XXI) are brought under the false claims statutes of various states. Therefore, the motion to dismiss essentially only addresses three species of false claims act violations. This does not justify pages in excess of the limit.

Relators would therefore respectfully request that this Court deny Baxter's motion for leave to file a memorandum in excess of the applicable page limitation. Alternatively, relators respectfully request that if leave is given to Baxter for the excess pages, that leave for a like number of excess pages be given to relators with respect to their opposition to the motion to dismiss.

Respectfully submitted.

Dated: August 20, 2009

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Counsel for Relators Linnette Sun and  
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**CERTIFICATE OF SERVICE**

I hereby certify that I, Pamela R. Savoie, caused a true and correct copy of the foregoing **RELATORS' OPPOSITION TO BAXTER INTERNATIONAL INC.'S MOTION FOR LEAVE TO FILE A MEMORANDUM IN EXCESS OF PAGE LIMITATION** to be delivered to all counsel of record by electronic service via LexisNexis File & Serve for posting and notification to all parties.

/s/ Pamela R. Savoie

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